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7  
8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 VIVIAN WRIGHT-BOLTON;

CASE NO.: 14-CV-01612-APG-PAL

11 Plaintiff,

12 v.

13 MELANIE ANDRESS-TOBIASSON,  
individually; THE ESTATE OF JENNIFER  
14 BOLTON deceased; KOCKA & BOLTON,  
LLC, a Nevada Limited Liability Company;

*Oral Argument Requested*

15 Defendants.  
16 \_\_\_\_\_/

17 **PLAINTIFF’S REPLY TO COUNTER-MOTION PURSUANT TO 56(d)**

18 COMES NOW Plaintiff, Vivian Wright-Bolton, by and through her counsel, Cal J.  
19 Potter, III, Esq. and C. J. Potter, IV, Esq. of Potter Law Offices, hereby Replies to Defendant’s  
20 Opposition to Plaintiff’s 56(d) Motion.

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1 This Reply is made and based upon the attached Memorandum of Points and  
 2 Authorities, the exhibits, papers and pleadings on file herein, and the argument of counsel at  
 3 the requested hearing in this matter.

4 DATED this 21st day of May, 2015

5 POTTER LAW OFFICES

6 By /s/ Cal J. Potter, III, Esq.  
 7 CAL J. POTTER, III, ESQ.  
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 8 C. J. POTTER, IV, ESQ.  
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11 **MEMORANDUM OF POINTS AND AUTHORITIES IN REPLY**

12 Defendant mischaracterizes the contents of Plaintiff's Rule 54(b) Motion so they may  
 13 attempt to refute the overly-simplified version of the Motion while ignoring its actual contents.  
 14 Specifically, the Defendant argues that Plaintiff: " fails to identify a single fact that is necessary  
 15 to vet in discovery in order to decide whether Judge Andress-Tobiasson is absolutely immune  
 16 from suit." (Doc. 22, p. 3, lns. 11-12). However, in actuality, Plaintiff expressly incorporated  
 17 the Declaration of her counsel, by reference. In the Declaration, Counsel stated: Plaintiff  
 18 requires the opportunity to depose Judge Tobiasson to test the veracity of the representations  
 19 which Judge Tobiasson has made in the Affidavit in support of her Motion for Summary  
 20 Judgment." (Doc 19-1 ¶ 8). Facts that contradict the representations made by Tobiasson include  
 21 that: "in investigating this claim prior to filing the Complaint, [the Declarant] was informed by  
 22 one attorney and one public defender that Jennifer Bolton and/or Frank Koka had counseled  
 23 and/or represented Judge Tobiasson in a claim involving an employer/employee matter of a  
 24 sensitive nature. (Doc 19-1 ¶ 9); and that [the Declarant] has also been informed that Ms.  
 25 Bolton accompanied Judge Tobiasson to introduce Judge Tobiasson to Jennifer Bolton's  
 26 friends and colleagues on numerous occasions. (Doc 19-1 ¶ 10). However Plaintiff is only able

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1 to confirm the representations made to your Declarant by deposing and subpoenaing witnesses  
 2 who have knowledge of the events concerning the issuance of the Orders in this matter. (Doc  
 3 19-1 ¶ 11).

4 Consequently, the Plaintiff has articulated specific facts that contradict Tobiasson's  
 5 representations and has demonstrated that Plaintiff requires the opportunity to depose  
 6 Defendant Tobiasson and issue subpoenas to obtain documents prior to the Court considering  
 7 Plaintiff's Motion. The contradictions are significant because Defendant Tobiasson is not  
 8 entitled to immunity if she acted in the clear absence of all jurisdiction. *See, Stump v.*  
 9 *Sparkman*, 435 U.S. 349, 356-357 (1978). Although immunity is generally a question of law, it  
 10 requires a factually intensive inquiry. *See e.g. Drummond v. Anaheim*, 343 F.3d 1052 (9th Cir.  
 11 2003). The justice courts are courts of limited jurisdiction. NRS 4.370(1). That is, they only  
 12 have jurisdiction over matters as granted by Nevada Revised Statutes. *State of Nevada v.*  
 13 *Justice Court*, 112 Nev. 803, 805 (1996). Therefore, it is objectively unreasonable to believe  
 14 that a Canadian Statute may somehow confer jurisdiction upon the Las Vegas Justice Court  
 15 over a matter which was pending in Nevada's Eighth Judicial District Court. Additionally, both  
 16 Eighth Judicial District Court Judge Gloria O'Malley and Chief Justice of the Peace  
 17 determined that Tobiasson's acted in the absence of all jurisdiction when she issued the subject  
 18 order. Further, because reliance upon a Canadian Statute is objectively unreasonable Defendant  
 19 Tobiasson's purported good faith is immaterial. Moreover, justice should require that Plaintiff  
 20 be afforded the opportunity to demonstrate that Defendant Tobiasson's affidavit is not accurate  
 21 prior to the Court entertaining Defendant's Motion for Summary Judgement.

22 DATED this 21st day of May, 2015

23 POTTER LAW OFFICES

24 By /s/ Cal J. Potter, III, Esq.  
 25 CAL J. POTTER, III, ESQ.  
 26 Nevada Bar No. 1988  
 27 C. J. POTTER, IV, ESQ.  
 28 Nevada Bar No. 13225  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that pursuant to FRCP 5(b), I did serve at Las Vegas, Nevada on this 21<sup>st</sup> day of May, 2015 a true and correct copy of **PLAINTIFF'S REPLY TO COUNTER-MOTION PURSUANT TO 56(d)** was served via the CM/ECF system on the following parties:

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